IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1342 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAFULLABEN R SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 1342 of 1999

MS KRINA C THAKKAR with MR YOGESH S LAKHANI for Petitioner No. 1-KA with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI fo Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with M YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petiti ner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHA I for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR w th MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for P titioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR Y

GESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitione No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S AKHANI for Petitioner No. 1-KAR with MR YOGESH S LAKHANI for Petitioner No. 1-AR with MR YOGESH S LAKHANI for Petitioner No. 1-KAR with MR YOGESH S LAK

MR PR ABICHANDANI, APP for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 26/02/2003

ORAL JUDGEMENT

Heard learned counsel for the respective parties. Though rule has been duly served upon the respondent No.2, he has chosen not to appear either personally or through advocate.

2. Ms.Krina C. Thakkar, learned counsel for the petitioners has mainly argued that the petitioners, who are original accused Nos.3 and 4, are wife and daughter of accused No.2. According to her, petitioners are directly or indirectly not connected with the day-to-day affairs of the company nor are they office bearers of the Company. Drawing my attention towards para 2 of the complaint, certified copy of which has been annexed with this petition, she has argued that even as per the say of the respondent No.2-complainant, accused No.1 is the first Director of the Company and accused Nos.2, 3 and 4 are related as husband, wife and daughter respectively and they are only shareholders of the Company and said contention has been taken in this petition also.

3. It appears that petitioners have nothing to do with the crime in question nor there is any specific allegation attributed against them in the complaint. Merely it has been stated that petitioners are also the accused and hence, they are facing the charge under Sec.120(B) of IPC. In this view of the matter, complaint qua the present petitioners are required to be quashed more particularly when complaint does not disclose any offence against them. As far as other accused are concerned, investigation shall proceed further in view of the allegation made in the complaint.

4. Thus, this petition is allowed. Complaint and the process issued in Criminal Case No.2793 of 1994 pending in the court of learned Metropolitan Magistrate, Ahmedabad are quashed and set aside qua the present

petitioners. Rule is made absolute accordingly. The investigation in respect of the criminal case qua other accused shall be proceeded with as directed by the court below and shall be completed expeditiously.

(R.P.DHOLAKIA,J.)

radhan/